ORIGINAL

Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C.

In the Matter Of	)	CC Docket No. 95-116
	)	RM No. 8535
Telephone Number Portability	)	

COMMENTS OF TELESERVICES INDUSTRY ASSOCIATION

The TeleServices Industry Association ("Association"), by its attorney, hereby comments on the Notice of Proposed Rulemaking ("NPRM") issued in the above-referenced proceeding.[1/] In the NPRM, the Commission proposes to require portability for certain telephone numbers. These comments will support the Commission's conclusion for portability for 900 numbers.

Similar to the recent changes that provided for 800 number portability,[2/] allowing subscribers to 900 numbers to switch service providers without changing their 900 number will promote competition and create marketplace efficiency, resulting in a wider range of services and benefits for the consumer. These benefits far outweigh the minimal costs involved with the implementation of 900 number portability.

BACKGROUND

The Association is a non-profit organization with 49 companies that helps maintain the standards and practices of the pay-per-call industry, educates the public about 900 telephone services, and looks for opportunities to expand business for its members. The Association also

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1/ Notice of Proposed Rulemaking, CC Docket No. 95-116, FCC 95-284 (July 13, 1995)

2/ Provision of Access for 800 Service, 4 FCC Rcd. 2824 (1991), *recon.* 6 FCC Rcd. 5421 (1991), *further recon.* 8 FCC Rcd. 1038 (1993).

participates in philanthropic efforts, and is currently working with the American Social Health Association to develop a toll-free information service to offer the public information about AIDS and STD.

The pay-per-call ("900") industry has been a valuable tool in the information marketplace, providing consumers access to a multitude of news and entertainment services. Since 1990, the pay-per-call industry has grown from an estimated revenue of $600 million a year to $5 billion a year today. A product manager for AT&T noted "the pay-per-call service is becoming a valuable and necessary business tool in corporate America . . . in the next few years, the 900 service will join the ranks of other information services used in today's corporate world and be readily accepted as an alternative way of conducting business."[3/]

Information providers who currently subscribe to a 900 number are assigned an NXX code, which identifies the specific service provider responsible for handling the routing and billing of a particular call. The 900 number and the NXX code direct the interexchange carrier ("IXC") to direct the call to an access customer. If a 900 customer wants to change its service provider, it has to change its 900 number.

In contrast, as a result of the 1993 Commission Order that mandated local exchange carriers ("LECs") to implement an 800 database access system, customers of 800 service can change service providers and keep the same 800 number.[4/] Instead of the six-digit NXX code, the LEC database stores the entire ten digits for each 800 number. The LEC then uses its service management system ("SMS") to access the database and match the 800 number with the selected

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3/ Mark Weidick, *Pay-Per-Call Services Headed for Acceptance*, DM NEWS, June 13, 1994, at 44, *available in* LEXIS, Nexis Library, OMNI File.

4/ Provision of Access for 800 Service, 8 FCC Rcd. 1038 (1993).

service provider. By screening the entire number, portability is achieved. Depending on the information stored in the database, a customer may use multiple service providers to handle calls to a single 800 number or use different IXCs at different times.

On October 18, 1994, the Association filed a petition for rulemaking seeking 900 number portability in a manner similar to 800 number portability. The petition demonstrated that portability would promote competition among the IXCs, lowering prices and providing quality service for the public. Most of the commenters agreed that a rulemaking by the Commission would be the best way to explore the cost and regulatory issues associated with 900 number portability. Information providers, represented by the Interactive Services Association and Network Telephone Services, Inc., and the IXCs, Sprint Corporation and MCI, supported portability as a way to level the playing field and provide the customer with a wider range of information services.[5/]

The LECs that commented voiced concern about the cost of implementing and upgrading the 800 database network to provide for 900 number portability. Because the 800 portability system was implemented using intelligent networks ("IN"), Service Control Points ("SCPs") are hard coded and the system is service dependent. The LECs argued that implementing 900 portability would require changing the SCP, SMS, and number database so that the system can screen the 800 and 900 prefixes in determining transport carrier. The LECs worried this would

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5/ *See generally* Comments of Sprint Corporation, Network Telephone Services, Inc., and Interactive Telephone Association, RM No. 8535; Reply Comments of MCI, RM No. 8535.

be costly and lead to potential delays in service.[6/] The only LEC to provide a cost for implementation estimated $5.5 to $8.5 million per database customer.[7/]

On December 12, 1994, the Association responded to the LEC concerns in its reply comments, noting that little evidence was offered to show that excessive costs would arise with the 900 database implementation.[8/] Using a conservative estimate of 302 million minutes per year of 900 number usage,[9/] the Association demonstrated that the cost of implementing 900 portability, if amortized by the LECs over a ten year period, could be recovered at a rate of less than 3¢ per minute.[10/]

On July 13, 1995, the Commission issued the NPRM, which incorporates the proceeding on the Association petition. In the NPRM, the Commission proposed 900 number portability, noting that portability "will allow customers to respond more readily to service and price differences among service providers, thereby promoting competition and efficiency in the provision of 900 and PCS N00 services."[11/] The Commission requests comments on the estimated costs of a 900 number database and how such a database should be implemented. The

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6/ The decisions made in the design of the IN for 800 portability was made by the LECs.

7/ Ameritech Comments, RM No. 8535, at 1.

8/ Association Reply Comments, RM No. 8535. The only LEC to put forth estimated costs for database implementation costs was Ameritech. Ameritech Comments, RM No. 8535. Further, the data put forth by the BOCs about the difficulty in 800 portability were found to have little support and contained discrepancies. See In re Provision of Access for 800 Service, 3 FCC Rcd. 721, ¶ 20 (1987).

9/ This number was produced by taking the mean of the numbers for 900 usage provided by BellSouth and Southwestern Bell. *See* BellSouth Comments, RM No. 8535; Southwestern Bell Comments, RM No. 8535.

10/ Association Reply Comments, RM No. 8535, at 6.

11/ NPRM, *supra* note 1, ¶ 69.

Commission also asks whether it should direct an industry group to develop an implementation plan.

DISCUSSION

The Association recommends that 900 number portability be mandated by the Commission as soon as possible to increase competition for information service provider traffic among IXCs. Such competition will in turn better serve the public interest through more efficient and a broader range of information services. The issue of portability to the 900 service is crucial to the success of the industry. Many companies spend a great deal of time and effort in selecting their 900 number as a direct representation for the information or service provided. Under the current arrangement, if a company desires to change its 900 service carrier, it must give up its special number, which is something most 900 service providers are reluctant to do. Thus, in many ways, the 900 information service provider becomes a captive customer of the IXC who sets the rates for 900 service. Because the information provider will not change its special 900 number, they cannot operate in an efficient competitive telecommunications environment, and they have lost bargaining power for better service and lower rates.[12/] Creating

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12/ The constraints information providers are forced to operate within is exemplified in a suit pending in California brought by various information providers against AT&T. The suit alleges that AT&T is illegally tying its billing and collection services to their tariffed transport services for 900 service. MRO Communications Inc v. AT&T, CV-S-95-503PMP (U.S. District Court for the District of Nevada). When an information provider cancels its AT&T billing service AT&T terminates the use of that specific provider's 900 number, even if the information provider continues to use AT&T transport services.

an opportunity for information providers to change their transport carrier based on price and service requirements, without changing their 900 number, would be an invaluable asset.[13/]

The usage of 900 numbers varies by the time and day, so the industry would be able to take advantage of the option under portability of having multiple carriers handle one line, or using different IXCs at different times. One of the largest service bureaus in the pay-per-call industry commented in the Association rulemaking that the high rates and rigidity within this system has prevented them from offering information services and forced them to discontinue others.[14/]

Although the information service industry has experienced steady growth, the noncompetitive environment within which information providers must operate has begun to negatively impact market demand. Portability is essential if there is to be competition among the IXCs, so that the unnecessarily high transport rates can be reduced to reflect the cost of the provided service. Lowering rates will promote the Commission's goal of having all pay-per-call business conducted through 900 service access codes.[15/]

The introduction of lower-cost 900 services will also increase demand for the information services. With greater demand, the costs for implementing the 900 database network will be reduced. Only one LEC has estimated the hardware and software costs for 900 number

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13/ If the Commission mandates portability, it should also provide a period after implementation that information service providers locked into long-term deals for 900 access may terminate those agreements and seek better rates, similar to what the Commission did after implementing 800 portability. In re Expanded Interconnection with Local Telephone Company Facilities, Report and Order, 7 FCC Rcd. 7369, ¶¶ 199-203 (1992).

14/ Comments of Network Telephone Services, Inc., RM No. 8535, at 2 .

15/ In re Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act, 75 Rad. Reg. 2d 1247, 1251-52 (1994).

portability, and using that estimate, it would cost less than 5¢ per minute over a six year period, or less than 3¢ per minute over a ten year period, to fully recover the costs.[16/]

One need look no further than the rapid growth experienced by the 800 services when portability was achieved.[17/] IXCs now compete for customers based on overall quality and service, instead of who has control of the information provider's NXX code as in the 900 industry. The entire infrastructure for telecommunications has also benefitted through the integration of all carriers in one system network.

Perhaps the greatest benefit portability would offer in the information service industry is that these changes will ultimately provide better information services for the public. The information service industry is embarking into new productive areas. While legal and medical advice, various product information, and televoting now exist in the information industry, companies are beginning to explore the use of pay-per-call with voice/data services for home and business use,[18/] and reverse directory services.[19/] The potential uses and increase in value for the information services industry outweighs any concerns about the potentially short term administrative costs that would occur with requiring 900 portability.

The Association recommends implementing the 900 database network at the same time the LECs implement the network for the new toll-free 888 service area code ("SAC). The

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16/ *See* Association Reply Comments, RM No. 8535, at 6-7.

17/ When 800 portability was introduced, rates for 800 number transport decreased. *See* Association Petition for Rulemaking, RM No. 8535, at 6-8.

18/ Jim O'Brian, *Voice/data Switching Finds a Niche in Dial-up Sales and Support,* COMPUTER SHOPPER, August 1995, at 6788.

19/ Mike Vogel, *Reverse Directory Services Cheaper than Others*, BUFFALO NEWS (Magazine), June 25, 1995, at 14.

technology that could permit 900 portability may be installed in the LEC system networks with the technology being used to implement 888 portability. On January 25, 1995, the Industry Numbering Committee ("INC") designated "888" as the new SAC for toll free numbers to help meet the demand for future 800 service.[20/] In a manner similar to what the Association proposes for 900 number implementation, the LECs are making changes to their existing 800 network software so that SCPs expand beyond the 800 hard code to allow flexibility in accessing additional query fields.[21/] The Service Switching Points (SSP) for end offices are to be updated so that instead of having 800 as a single trigger code, multiple triggers will be allowed. The centralized database will also need to be expanded to include the 888 numbers. The implementation for this entire process, which was released to the industry on March 31, 1995, is to be completed on March 1, 1996.[22/]

900 number portability would simply require making the same changes to the network that were required with the addition of the 888 service code. Therefore, when a 900 call was placed, the LEC (through the SMS) could search the database by the entire ten digit number, instead of just the NXX code, to select the proper transport carrier.

The Association acknowledges the benefits that the Advanced Intelligent Network (AIN) bring to the telephone carrier environment over IN. AIN is service independent, allowing the intelligence now placed in every switch to be placed in fewer, centralized databases, with no need to change the software each time a new SAC is introduced. The estimated time for

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20/ National LEC 800 Product Team, *The LEC "800 Portability" Network Implementation Plan*, August 31, 1995.

21/ *Id.* at 4.

22/ *See* National LEC 800 Product Team, *The LEC "800 Portability" Network Implementation Plan*, March 31, 1995.

implementation by all BOCs has been projected to take several years.[23/] Because of the significant benefits portability would provide, and the enormous restrictions that exist under the current system, the 900 industry cannot afford to wait for complete AIN implementation. The Association recommends a flexible policy that INC has adopted towards 888 implementation, where the BOC can choose the architecture, IN or AIN, that best suits its needs for adding service access codes, thereby continuously taking advantage of developing technology. To this end, the Association supports use of an industry forum to ensure that implementation of 900 portability as soon as possible.

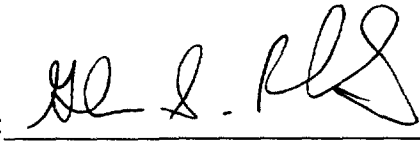
23/ NYNEX Reply Comments, RM No. 8535, at 2.

CONCLUSION

The growth of information services has been impeded by the noncompetitive transport carrier environment. The recent advances in 888 toll free portability show it is feasible to adapt and upgrade the existing database system for 900 numbers. 900 number portability is essential to the information service industry, as the lower transport rates will create new and more efficient information provider services and a better product for the public. The Association enthusiastically supports the Commission proposal to require 900 portability and recommends that LECs work within the current 888 database to support 900 number implementation.

Respectfully submitted,

TELESERVICES INDUSTRY ASSOCIATION

By: 

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